

(Continued from Fourth Page.)

"certain in time to become the property of the Union." More than all, from Judge Cooley's point of view, Alaska was not "contiguous."

Observe the remarkable ingenuity of his plea to avoid the necessity of admitting that if the annexation of Hawaii is unconstitutional, the annexation of Alaska was unconstitutional.

"This country bordered upon territory which upon plausible reasons we had claimed to own, but which, in the settlement of our northwestern boundary with Great Britain, had been assigned to that power. It was, therefore, not at the time of its acquisition strictly contiguous to any territory of the United States. It was, nevertheless, upon the continent; it was not very far away; it was unoccupied except by a race of savages; it would be open to occupation by American people, and in due time, if sufficient population should be found there, would be provided with a territorial government, and might become a State of the American Union without seeming to conflict especially with what we hereinbefore have claimed to be the true rule of constitutional construction on the subject. Had it been annexed previous to the settlement of the Oregon boundary, no one could have raised any question of constitutional propriety."

The true rule of constitutional construction? Judge Cooley's true rule seems to be any rule that will let in what has been let in already, and at the same time bar Hawaii out. Summed up fairly and in brief, his grave constitutional obstacles in the way of Hawaiian annexation are these:

1. Hawaii is a sovereign and independent State, and the proposed annexation is to be by mutual consent, not by purchase, as was the case with the Louisiana and Florida annexations and with Alaska. To this we reply that the exact constitutional precedent for the annexation of independent Hawaii by mutual consent, is found in the case of the annexation of independent Texas by mutual consent.

2. No attempt was made to ascertain the wishes of the native population; the desire of the people in the premises was not expressed, nor was it called for. This may have been done in the case of Texas, and to some extent in the cases of the Louisiana region and of Florida. It certainly was not done in the case of Alaska.

3. Hawaii is not contiguous like the Louisiana acquisition, Florida and Texas; it is miles away from the nearest American border and separated from us by a broad expanse of ocean. To this we reply that the exact precedent for a case of non-contiguity and distance across the ocean is found in the annexation of Alaska.

Thus it will be seen that if Judge Cooley is right in his main reasons why the annexation of Hawaii would be unconstitutional, either the annexation of Texas was unconstitutional or the annexation of Alaska was unconstitutional. As matters stand, we suppose he would rather accept the latter alternative. Every argument, save that based on the sovereignty of the nation asking admission, applies with equal force to Hawaii and to Alaska. The argument as to the independence of the nation asking to be annexed applies with equal force to Hawaii and to Texas. If there is no constitutional precedent for the annexation of Hawaii, and if Texas rightfully belongs in the Union—and few readers, we venture to say, entertain any doubt as to that—then Alaska is unconstitutional. Its non-contiguity, the failure to consult the wishes of a vast majority of its inhabitants, the fact that it was not needed for the expansion of our natural growth, the incongruous character of its population and the dissimilarity of their institutions, the immense distance of its islands from our boundaries, all serve to establish the unconstitutionality of the process by which it was acquired, if we accept Judge Cooley's "true rule of constitutional construction on the subject."

And if the annexation of Alaska was unconstitutional, who owns that vast region to-day? Certainly not the United States Government. Our title failing, does Alaska still belong to Russia, or does it revert to the Eskimos, the Haidas, the Athabascans, the Chinooks, and the Thlingits? We leave this question to the Hon. Thomas M. Cooley of Michigan. He is an eminent expounder of constitutional law and we love to read his writings. But on the present subject which he has so luminously and serenely discussed in the June Forum, the Judge's position is as illogical and impossible as that of a full moon shining down from the zenith upon a sunlit sea.—New York Sun.

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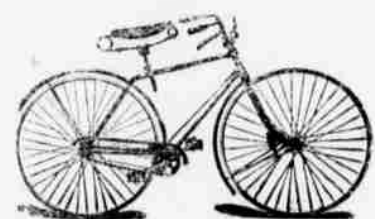
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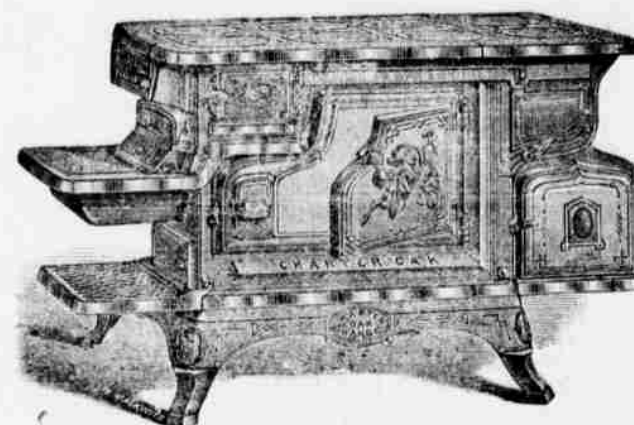
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